IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK ROCHESTER DIVISION

GREG KUEBEL, on Behalf of)
Himself and All Others Similarly)
Situated,)
) Case No. 08-CV-6020T
Plaintiff,)
) <u>Jury Demanded</u>
vs.)
)
BLACK & DECKER (U.S.), INC.,)
)
Defendant.)

MOTION FOR CERTIFICATION OF NEW YORK LABOR LAW CLASS ACTION, CONDITIONAL CERTIFICATION OF FLSA CLASS, AND PRELIMINARY APPROVAL OF SETTLEMENT AND PROPOSED NOTICE

NOW COMES Representative Plaintiff Greg Kuebel, on behalf of himself and all others similarly situated, and files this Motion for Certification of New York Labor Law Class Action, Conditional Certification of FLSA Class, and Preliminary Approval of Settlement and Proposed Notice, in which he asks this Court to:

- 1. Certify for settlement purposes only a New York Labor Law class action;
- 2. Grant preliminary certification for settlement purposes only of an FLSA class;
- 3. Grant preliminary approval of the Joint Stipulation of Settlement and Release ("Settlement") (Doc. No. 180);
- 4. Approve the following (collectively, the "Notice Materials"): (a) Claim Form (Non-NY/Previously Filed Consent to Join) ("Exhibit A" to Settlement) (Doc. No. 180-1); (b) Claim Form (NY-Previously Filed Consent to Join) ("Exhibit B" to Settlement) (Doc. No. 180-2); (c) Consent to Join/Claim Form (New/Non-NY/Full-Time) ("Exhibit C" to Settlement) (Doc. No. 180-3); (d) Consent to Join/Claim Form (New/NY/Full-Time) ("Exhibit D" to Settlement) (Doc. No. 180-4); and (e) Notice of Collective Class Action Settlement ("Exhibit E" to Settlement) (Doc. No. 180-5); and

5. Establish a date for a Fairness Hearing.

In addition, concurrently herewith, Plaintiff Kuebel files a Memorandum of Law in Support of this Motion and the Declaration of Alan G. Crone. Finally, attached hereto as "Exhibit A" is a Proposed Order on Motion for Certification of New York Labor Law Class Action, Conditional Certification of FLSA Class, and Preliminary Approval of Settlement and Proposed Notice.

Dated: October 19, 2012 s/ Alan G. Crone

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was filed electronically and notice of such filing was made electronically to Defendant's counsel pursuant to the Electronic Case Filing Rules of the United States District Court for the Western District of New York on October 19, 2012:

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s/ Alan G. Crone